

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MARIO PILLCO MOROCHO, *et al.*,

Plaintiffs,

v.

BRISTOL COUNTY SHERIFF'S OFFICE,
et al.,

Defendants.

No. 1:22-cv-10652-WGY

**INDIVIDUAL FEDERAL DEFENDANT TODD LYONS'
ASSENTED-TO RENEWED MOTION TO DISMISS FOR LACK OF SERVICE**

Individual federal Defendant Todd Lyons renews his motion to dismiss for lack of service because Plaintiffs failed to serve him properly by the Court's imposed deadline. *See* Electronic Order (Nov. 17, 2022), ECF No. 21. Plaintiffs assent to the relief requested in this motion. In support of his motion, Mr. Lyons states:

1. On November 2, 2022, Mr. Lyons moved to dismiss the complaint because Plaintiff had failed to perfect service within the time allotted by the Federal Rules of Civil Procedure. Fed. Defs.' Partially-Assented-To Mot. to Dismiss for Lack of Service (Nov. 2, 2022), ECF No. 17, at 1.

2. On November 17, 2022, the Court allowed Mr. Lyons' motion to dismiss and ordered as follows:

Leave granted to serve all the defendants properly within 30 days of the date of this order. Should such service not be made as to any defendant, the case is dismissed as to that defendant without prejudice.

Electronic Order (Nov. 17, 2022), ECF No. 21.

3. The Court-imposed 30-day period to properly serve Mr. Lyons expired on December 19, 2022.¹

4. Plaintiffs failed to serve Mr. Lyons by December 19, 2022. Plaintiffs have not filed on the docket any return of service as to Mr. Lyons. *Cf.* L.R. 4.1(a) (“Any summons not returned with proof that it was served within 90 days of the filing of the complaint is deemed to be unserved for the purpose of Fed. R. Civ. P. 4(m).”). Nor have Plaintiffs served Mr. Lyons in accordance with Fed. R. Civ. P. 4.

5. Therefore, pursuant to the Court’s order, “the case is dismissed” without prejudice as to Mr. Lyons.

WHEREFORE, for the avoidance of any doubt, Mr. Lyons requests that the Court dismiss the complaint against him without prejudice.

Dated: December 22, 2022

Respectfully submitted,
RACHAEL S. ROLLINS
United States Attorney

By: /s/ Julian N. Canzoneri
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¹ Since the last day of the 30-day period fell on a Saturday, the 30-day period concluded at the end of the next business day (*i.e.*, Monday, December 19, 2022). *See* Fed. R. Civ. P. 6(a)(1).

LOCAL RULE 7.1 CERTIFICATION

I, Julian N. Canzoneri, hereby certify that, pursuant to L.R. 7.1(a)(2), I conferred with counsel for Plaintiffs who assents to the relief requested in this motion.

Date: December 22, 2022

/s/ Julian N. Canzoneri
Julian N. Canzoneri
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorneys of record by means of the Court's Electronic Case Filing system on December 22, 2022.

/s/ Julian N. Canzoneri
Julian N. Canzoneri
Assistant U.S. Attorney